

# The Gazette



# of India

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## PART V

Bills introduced in the Constituent Assembly of India (Legislative), Reports of Select Committees presented to the Constituent Assembly of India (Legislative) and Bills published under Rule 39 of the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business.

GOVERNMENT OF INDIA

### CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

The following Bills were introduced in the Constituent Assembly of India, Legislative on the 4th February, 1949:—

#### A. BILL\* No. 8 OF 1949

*A Bill to provide for the control of the transfer of certain securities and for the issue of duplicate securities in respect thereof.*

WHEREAS it is expedient to provide for the control of the transfer of certain securities and for the issue of duplicate securities in respect thereof;

It is hereby enacted as follows:—

**1. Short title.**—This Act may be called the Scheduled Securities (Hyderabad) Act, 1949.

**2. Definitions.**—In this Act—

(i) “Bank” means the Reserve Bank of India;

(ii) “scheduled security” means any Government security specified in the Schedule to this Act, but does not include any duplicate security issued under the provisions of section 4;

(iii) “transfer”, in relation to a scheduled security, includes the transfer of any interest in the scheduled security.

**3. Title to scheduled security not affected by previous transfers.**—The Bank shall not, without the approval in writing of the Central Government, recognise for any purpose any transfer of a scheduled security otherwise than to the Government of Hyderabad made or purported to have been made before the 31st day of December, 1948, and notwithstanding any transfer so made or purported to have been so made and notwithstanding anything contained in any

\*The Governor-General has been pleased to give the previous sanction required by section 153 of the Government of India Act, 1935, to the introduction in the Legislature of this Bill.

law for the time being in force, the scheduled security shall be deemed to be, and always to have been, vested in the Government of Hyderabad.

**4. Issue of duplicate securities.**—(1) Notwithstanding anything contained in any law for the time being in force, the Bank shall issue to the Government of Hyderabad duplicate securities payable to that Government in lieu of the scheduled securities as if such securities had been lost, and such duplicate securities shall have the same effect as if they had been issued under section 11 of the Public Debt (Central Government) Act, 1944 (XVIII of 1944).

(2) On the issue of duplicate securities under sub-section (1), all rights or remedies vested in or enforceable by any person in respect of the scheduled securities in lieu of which such duplicate securities have been issued shall be deemed to be extinguished.

(3) The Bank shall impound all scheduled securities which are or have been presented to it and cancel the same.

**5. Bar of jurisdiction.**—No suit or other legal proceeding for the enforcement of any rights or remedies in respect of any scheduled security shall be instituted in any Court save with the previous consent of the Central Government.

**6. Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Central Government, the Bank or any person for anything done or intended to be done in good faith in pursuance of the provisions of this Act.

**7. Repeal of Ordinance XXXVII of 1948.**—(1) The Scheduled Securities (Hyderabad) Ordinance, 1948 (XXXVII of 1948), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act had commenced on the 31st day of December, 1948.

#### THE SCHEDULE

[See section 2(ii)]

#### SCHEDULED SECURITIES

Serial No.	Denomination, form and number of security <sup>1</sup>		Amount
1	3% Funding Loan, 1960—68—		Rs.
	Stock Certificate Nos. BY 0021-3	(3×50,00,000)	1,50,00,000
	Do. No. BY 0034		50,00,000
	Do. Nos. BY 0087-93	(7×50,00,000)	3,50,00,000
	Do. Nos. BY 0095-99	(5×50,00,000)	2,50,00,000
	Do. No. BY 0158		50,00,000
	Do. No. BY 0187		30,00,000
	Do. Nos. BY 0125-6	(2×10,00,000)	20,00,000
	Do. No. BY 0148		25,00,000
	Do. Nos. BY 0160-2	(3×25,00,000)	75,00,000
2	8% First Development Loan, 1970—75—		
	Stock Certificate Nos. BY 1084-92	(9×5,00,000)	45,00,000
	Do. Nos. BY 1185-95	(11×5,00,000)	55,00,000
	Do. Nos. BY 0754-73	(20×5,00,000)	1,00,00,000
	Do. Nos. BY 0802-4	(3×5,00,000)	15,00,000
	Do. Nos. BY 0895-906	(12×5,00,000)	60,00,000
	Do. Nos. BY 1072-7	(6×5,00,000)	30,00,000
	Do. Nos. BY 1214-21	(8×5,00,000)	40,00,000
	Do. Nos. BY 1230-9	(4×5,00,000)	20,00,000

Serial No.	Denomination, form and number of Security		Amount
Stock Certificate	Nos. BY 1246-53	(8 x 5,00,000)	40,00,000
Do.	Nos. BY 1283-91	(9 x 5,00,000)	45,00,000
Do.	No. BY 1339		5,00,000
Do.	Nos. BY 1364-7	(4 x 5,00,000)	20,00,000
Do.	Nos. BY 1393-4	(2 x 5,00,000)	10,00,000
Do.	Nos. BY 1396-402	(7 x 5,00,000)	35,00,000
Do.	Nos. BY 1419-21	(3 x 5,00,000)	15,00,000
Do.	Nos. BY 1433-40	(8 x 5,00,000)	40,00,000
Do.	Nos. BY 1442-5	(4 x 5,00,000)	20,00,000
Do.	Nos. BY 1467-9	(3 x 5,00,000)	15,00,000
Do.	Nos. BY 1477-81	(5 x 5,00,000)	25,00,000
Do.	Nos. BY 1503-4	(2 x 5,00,000)	10,00,000
Do.	No. BY 1506		5,00,000
Do.	Nos. BY 1508-59	(52 x 5,00,000)	2,80,00,000
Do.	Nos. BY 1568-78	(11 x 5,00,000)	55,00,000
Do.	Nos. BY 1581-5	(5 x 5,00,000)	25,00,000
Do.	No. BY 1593		5,00,000
Do.	No. BY 1245		2,00,000
Do.	No. BY 1213		3,00,000
Total			20,00,00,000

### STATEMENT OF OBJECTS AND REASONS

It was brought to the notice of the Government of India in December 1947 that, notwithstanding the Standstill Agreement with H E H. the Nizam of Hyderabad, the Hyderabad Government had decided to transfer Government of India Securities worth Rs. 20 crores to the Pakistan Government. The Government of India considered that this decision of the Hyderabad Government was in clear breach of the Standstill Agreement inasmuch as it was tantamount to entering into relationship with a foreign Government which under that Agreement it was precluded from doing. As a result of the objections taken by the Government of India, the Hyderabad Government intimated that it had arranged with the Pakistan Government not to put the Securities in question on the market. Subsequently, it was brought to the notice of the Government of India that an application had been made to the Reserve Bank of India for the conversion of some of these securities into promissory notes of small denominations. Such conversion was obviously intended for the purpose of disposing of the Securities. This was a fresh breach of the undertaking given by the Hyderabad Government. The Government of India had also evidence that all the available resources of the Hyderabad Government were being utilised for the purchase of war-like materials; in particular, large blocks of the Hyderabad Government's holdings of India Government Securities were being sold, which could not but have a very detrimental effect on the Indian market. To protect India's interests, therefore, it became necessary to promulgate the Securities (Hyderabad) Ordinance, 1948 (XVI of 1948) on the 1st July 1948 so as to prevent the sale or transfer of Government of India Securities held by or on behalf of the Hyderabad Government and the Hyderabad State Bank, including the Securities worth Rs. 20 crores mentioned above.

2. In November 1948, His Exalted Highness the Nizam declared that the transfer of Securities worth Rs. 20 crores to the Pakistan Government was beyond the competence of the Hyderabad Government and therefore invalid. The Hyderabad Government thereupon wrote to the Pakistan Government through the Government of India requesting them to return those Securities. The latter however refused to do so and the Hyderabad Government applied to the Government of India to authorise the Reserve Bank of India to cancel these Securities and to issue duplicates to them. An Ordinance, called the Scheduled

Securities (Hyderabad) Ordinance, 1948 (XXXVII of 1948), was accordingly issued on the 81st December 1948 giving such authority to the Reserve Bank.

3. The Scheduled Securities (Hyderabad) Ordinance would in the normal course expire on the 30th June 1949. It is, however, essential that the provisions of that Ordinance should be retained permanently on the Statute-book. This Bill incorporates the provisions of the Ordinance with consequential changes.

V. J. PATEL.

NEW DELHI:  
The 26th January, 1949.

A. BILL\* No. 9 OF 1949

*A Bill to amend the Public Debt (Central Government) Act, 1944.*

WHEREAS in pursuance of section 108 of the Government of India Act, 1935 (26 Geo. 5, c. 2), resolutions have been passed by all the Chambers of all the Provincial Legislatures to the effect that certain matters relating to the public debt of the Provinces, namely, the consolidation and amendment of the law relating to securities issued by the Provincial Governments and the management by the Reserve Bank of India of the public debt of the Provinces, should be regulated by Act of the Dominion Legislature;

AND WHEREAS in consequence thereof it is necessary to amend the Public Debt (Central Government) Act, 1944 (XVIII of 1944), for the purpose of making its provisions also applicable to securities issued by the Provincial Governments;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Public Debt (Central Government) Amendment Act, 1949.

(2) It shall come into force on the 1st day of April, 1949.

2. **Amendment of long title and preamble, Act XVIII of 1944.**—In the Public Debt (Central Government) Act, 1944 (hereinafter referred to as the said Act), in the long title and the preamble, the words "issued by the Central Government", in both places where they occur, shall be omitted, and for the words "of the Central Government", in both places where they occur, the words "of the Dominion and the Provinces" shall be substituted.

3. **Amendment of section 1, Act XVIII of 1944.**—In sub-section (1) of section 1 of the said Act, the words and brackets "(Central Government)" shall be omitted.

4. **Amendment of section 2, Act XVIII of 1944.**—In section 2 of the said Act—

(i) after clause (1), the following clause shall be inserted, namely:—

‘(1A) “the Government”, in relation to any Government security, means the Central or Provincial Government issuing the security;’; and

(ii) in clause (2) after the words “Central Government”, in both places where they occur, the words “or a Provincial Government” shall be inserted.

5. **Amendment of section 3, Act XVIII of 1944.**—In sub-section (1) of section 3 of the said Act, for the words “made after the commencement of this Act” the following shall be substituted, namely:—

“which, in the case of a security issued by the Central Government, is made after the 30th day of April, 1948, and in the case of a security

\*The Governor-General has been pleased to give the previous sanction required by section 153 of the Government of India Act, 1935, to the introduction in the Legislature of this Bill.

issued by a Provincial Government, is made after the 31st day of March, 1949".

**6. Substitution of "the Government" for "the Central Government" in certain sections of Act XVIII of 1944.**—In clause (b) of sub-section (1) of section 8, sub-section (1) of section 5, section 6, sub-section (3) of section 11, section 18, section 19, section 23, section 24, section 25 and clause (k) of sub-section (2) of section 28 of the said Act, for the words "the Central Government", wherever they occur, the words "the Government" shall be substituted.

**7. Amendment of section 17, Act XVIII of 1944.**—In section 17 of the said Act, for the words "the official Gazette" the words "the Gazette of India or the official Gazette of the Province, according as the notice relates to a security, issued by the Central Government or a Provincial Government" shall be substituted.

#### STATEMENT OF OBJECTS AND REASONS

Until 1946 the Indian Securities Act, 1920, governed the securities issued by both the Central and the Provincial Governments. The working of this Act disclosed certain defects and it was considered necessary to amend it, particularly in the context of the very large increase of the public debt during the war years. Under the Government of India Act, 1935, the Central Legislature was competent to change only the law in respect of Central securities and the provisions of the Indian Securities Act, 1920, were accordingly replaced, so far as the Central public debt was concerned, by a comprehensive new Act, the Public Debt (Central Government) Act, 1944, which was brought into effect from the 1st May 1946 leaving the Provincial securities to be regulated by the Indian Securities Act, 1920. As the money market is common to the whole country and the public debt of the Central and Provincial Governments is administered by a single agency, *viz.* the Reserve Bank, it is obviously desirable to have uniform legislation for regulating the public debt of both. The Provincial Governments concur in this view and the chambers of the legislatures of all the Provinces in India have passed resolutions recommending that the securities issued by their respective Governments and their public debt should be regulated by an Act of the Dominion Legislature. It is accordingly proposed to amend the Public Debt (Central Government) Act so as to extend it to cover the public debt of all the Provincial Governments.

JOHN MATTHAI.

NEW DELHI;  
The 27th January, 1949.

The following Bills were introduced in the Constituent Assembly of India, Legislative on the 10th February, 1949:—

#### A. BILL No. 10 of 1949.

*A Bill further to amend the Code of Civil Procedure, 1908.*

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908 (Act V of 1908), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

**1. Short title.**—This Act may be called the Code of Civil Procedure (Amendment) Act, 1949.

**2. Amendment of section 82, Act V of 1908.**—In section 82 of the Code of Civil Procedure, 1908,—

(a) in sub-section (1), for the words "where the decree is against the

Dominion of India or a Province or against a public officer in respect of any such act as aforesaid", the following words shall be substituted, namely:—

"Where in a suit by or against the Government, or by or against a public officer in respect of any such act as aforesaid, a decree is passed against the Dominion of India or a Province or, as the case may be, the public officer"; and

(b) after sub-section (2), the following sub-section shall be added, namely:—

"(3) The provisions of sub-sections (1) and (2) shall apply in relation to an order or award as they apply in relation to a decree, if the order or award—

(a) is passed or made against the Dominion of India or a Province or a public officer in respect of any such act as aforesaid, whether by a Court or by any other authority, and

(b) is capable of being executed under the provisions of this Code or of any other law for the time being in force as if it were a decree."

#### STATEMENT OF OBJECTS AND REASONS

Section 82 of the Code of Civil Procedure, 1908, provides that, where a decree is passed against the Dominion or a Province or against a public officer in respect of an act done by him in his official capacity, a time should be specified in the decree within which it shall be satisfied and that if it is not so satisfied, a report should be made to the Government; and no execution is to issue unless the decree remains unsatisfied for a period of three months from the date of the report. It has been held by the Calcutta High Court [See I.L.R. (1942) 2 Cal. 528 at page 532] that "the section is confined to decrees passed in suits which are referred to in the previous sections and which can only be instituted after service of notice under section 80".

The object of this Bill is to make it clear that section 82 applies to decrees in all suits and to extend its provisions to orders and awards made by a Court or any other authority and capable of being executed as if they were decrees. It is clearly as necessary to give the Government and their officers an opportunity to satisfy the claims allowed against them in these cases as in those dealt with at present in section 82.

B. R. AMBEDKAR.

NEW DELHI,

The 9th February, 1949.

#### A. BILL\* NO. 11 OF 1949.

*A Bill further to amend the Indian Tea Control Act, 1938.*

WHEREAS it is expedient further to amend the Indian Tea Control Act, 1938 (VIII of 1938), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Indian Tea Control (Amendment) Act, 1949.

\* The previous consent necessary under sub-section (1) of section 106 of the Government of India Act, 1935, for the enactment of the provisions of this Bill amending Chapter III of the Indian Tea Control Act, 1938, has been given by the Governors of the Provinces concerned.

**2. Amendment of section 2, Act VIII of 1938.**—For clause (e) of section 2 of the Indian Tea Control Act, 1938 (hereinafter referred to as the said Act), the following clause shall be substituted, namely:—

“(e) ‘owner’—

(i) with reference to a tea estate or garden, or a sub-division thereof, the possession of which has been transferred by lease, mortgage or otherwise, means the transferee so long as his right to possession subsists, and

(ii) with reference to a tea estate or garden, or a sub-division thereof, for which an agent is employed, means the agent if, and in so far as, he has been duly authorized by the owner in that behalf.”

**3. Amendment of section 26, Act VIII of 1938.**—In section 26 of the said Act,—

(i) in the first paragraph, for the words “save in pursuance of a written permission granted by or on behalf of the Committee”, the words “unless permission has been granted in writing by or on behalf of the Committee and such permission was in force on the date aforesaid or was granted after that date” shall be substituted;

(ii) in clause (a) of the proviso, for the words and figures “on or before the 31st day of March” in the three places where they occur, the words “on the 31st day of March” shall be substituted;

(iii) in clause (b) of the proviso, the words “which are worn out on or before the 31st day of March 1948” shall be omitted, and for the words “on or before the 31st day of March” occurring later, the words “on the 31st day of March” shall be substituted.

**4. Amendment of section 29, Act VIII of 1938.**—In section 29 of the said Act,—

(i) in sub-section (1), clause (c) shall be relettered as clause (d), and the following shall be inserted as clause (c), namely:—

“(c) has since been transferred to the Central or a Provincial Government or to a local authority and no longer carries tea, or”;

(ii) in the proviso to sub-section (2), for the words “or compulsorily acquired” the words “, compulsorily acquired, transferred, or resumed” shall be substituted.

#### STATEMENT OF OBJECTS AND REASONS

The Bill is designed to remedy certain minor defects in the Indian Tea Control Act, 1938, which have come to light in the course of the working of the Act.

K. C. NEOGY,

NEW DELHI;

*The 5th January, 1949.*

#### Notes on clauses.

**Clause 2.**—The expression ‘owner of a tea estate’ will ordinarily denote the owner of the soil of the land occupied by the estate. But it is intended to denote the person having the right to grow tea on the land and his agent, if any. The definition of “owner” in the Act has, therefore, been suitably amplified and recast.

*Clause 3.*—It was not the intention to nullify permissions for the new planting of tea granted, but not utilised, in respect of any period ending on the 31st March 1948. But under section 28 of the Act as amended in 1948, unless the permission has been renewed on a fresh application submitted after the 31st of March 1948, it will lapse. Owing to ignorance of the exact effect of the amendments made in 1948, fresh applications have not been made in most cases. It is, therefore, proposed to provide that any written permission which could have been acted on on the 31st March 1948, would continue in operation without any need for a fresh renewal.

The words 'on or before the 31st March 1948/1946' which occur in section 28, will also cover pre-control periods, that is, periods before 1938; and are consequently likely to lead to administrative difficulties. The intention all along has been that the acreage of land carrying tea on the 31st March of the relevant year should serve as the basis with reference to which we should calculate the area in which infilling or supplying of vacancies or replacement may be permitted. The words 'or before' have, therefore, been omitted in all the places where they now occur.

Although the intention was to provide for the replacement only of 'worn out' areas yet the term 'worn out' has not been mentioned in the draft International Tea Agreement on which the Indian Tea Control Act is based. The term 'worn out' has been deleted from section 28, to bring it into accord with the language employed in the International Agreement.

*Clause 4, sub-clause (i).*—In one case, the Government of Assam, instead of acquiring some tea-bearing land under the Land Acquisition Act, merely purchased it from the owner. If the lands had not been sold, they would have been compulsorily acquired; and it was really this fact which led the owner to sell it. It is clear that the privilege of replacement should be extended to such lands. New clause (c) covers all cases of voluntary transfer whether to the Central or a Provincial Government or to a local authority.

*Sub-clause (ii)* makes an amendment consequential on sub-clause (i).

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M. N. KAUL,  
Secy. to the Govt. of India.